

EXHIBIT Q

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Complaint of Andrew Harnett, as
owner of vessel M/V READY JET GO for Exoneration
from or Limitation of Liability.

and

In the Matter of Peter J. Sharp Boathouse, Inc., as owner of
the floating vessel constituting the boathouse, seeking
exoneration from or limitation of liability.

**1:06-cv-00699(LMM)(GWG)
consolidated with:
1:06-cv-03061(LMM)(GWG), and
1:06-cv-03062(LMM)(GWG)**

and

In the Matter of New York Rowing Association, Inc., as
owner of a 2001, coxless Empacher rowing shell, seeking
exoneration from or limitation of liability.

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**STATEMENT OF UNDISPUTED MATERIAL FACTS
PURSUANT TO ALL PARTIES' RESPONSES TO THE
REQUESTS FOR ADMISSION AND RULE 56.1 STATEMENT
PROPOUNDED BY
NEW YORK ROWING ASSOCIATION, INC. and
PETER J. SHARP BOATHOUSE, INC.**

Based upon all the parties' responses to the Request for Admissions and Rule 56.1 Statement propounded by Petitioners Peter J. Sharp Boathouse, Inc. and New York Rowing Association, Inc. the following facts have been deemed admitted and conclusively established for purposes of this action.

1. At or about 6:00 a.m. on October 24, 2005, there were four rowers on board a 45-foot long, coxless racing shell¹ in the Harlem River: Jim H. Runsdorf, Edward Joyce, Jeff Lundwall and Vincent Houston.
2. Jim Runsdorf, Edward Joyce, Jeff Lundwall, and Vincent Houston met at the Peter J. Sharp Boathouse on the Harlem River before 6:00 AM on the morning of October 24, 2005.
3. Jim H. Runsdorf, Edward Joyce, Jeff Lundwall, and Vincent Houston placed the 45-foot long coxless shell in the Harlem River from the pier at the Peter J. Sharp Boathouse on the morning of October 24, 2005, prior to sunrise.
4. Each of the four individuals onboard was a "Master" rower, and each had prior experience rowing onboard rowing shells. Claimants contend that, however, "Masters" delineated age, not ability or experience.
5. On October 24, 2005, Jim H. Runsdorf ("Runsdorf") was an operator of a rowing shell on navigable waters of the Harlem River, Bronx County, New York.
6. Jim H. Runsdorf was in the bow position on the shell before the collision on the morning of October 24, 2005.
7. Jim Runsdorf was in the seat closest to the bow, or the forward most seat of the rowing shell.

¹ While the rowing shell involved in the fatal collision of October 24, 2005 often is referred to as a "45 foot coxless racing shell", the actual length of the hull measures 42.3 feet.

8. Given his position in the rowing shell, Runsdorf was responsible for providing commands to the other rowers.
9. Runsdorf had years of experience rowing in the Harlem River.
10. Jim H. Runsdorf was in the bow position on the shell before the collision on the morning of October 24, 2005.
11. In New York City daylight savings time was still observed on October 24, 2005.
12. In New York City sunrise did not occur until 7:17 a.m. local time on October 24, 2005.
13. There were no lights onboard the shell when it was taken out on the Harlem River on the morning of October 24, 2005.
14. None of the four rowers (Runsdorf, Joyce, Houston, and Lundwall) onboard the shell was wearing a personal floatation device on the morning of October 24, 2005.
15. The rowers were not accompanied by an escort boat on the morning of October 24, 2005.
16. On October 24, 2005, Petitioner Andrew Harnett was the owner of READY JET GO, a 29-foot Hinckley, Talaria jet boat.
17. On October 24, 2005, Harnett was the operator of READY JET GO
18. On the morning of October 24, 2005, Harnett was traveling south on the Hudson River from Piermont, New York to Connecticut to have READY JET GO hauled out of the water and winterized.
19. Richard Brady was the sole passenger onboard READY JET GO for the voyage to Connecticut that morning.

20. Brady sat in the front seat of READY JET GO as it traveled south in the Harlem River.
21. Exiting the Hudson River, READY JET GO passed through the Spuyten Duyvel Railroad Bridge before it continued east and south in the Harlem River.
22. The operator of the railroad bridge opened the bridge for a vessel fitting the description of READY JET GO at 0545 on October 24, 2005.
23. The rowers intended to travel south to about the point of the 2000 meter mark on the bulkhead and then “sprint” back north to the finish line near the Peter J. Sharp Boathouse. Claimants additionally admitted that “The Rowers intended to travel south to the 2000 meter mark or slightly further south and then do row back up [*sic*] the course in the opposite direction.”
24. The rowers traveled south on the Harlem River after leaving the boathouse.
25. The trip from the boathouse to the 2000 meter mark took between 10 and 23 minutes.
26. During the rowing trip from the boathouse to the 2000 meter mark, all the rowers in the shell were facing north and were able to look north on the Harlem River.
27. Ready Jet Go was a jet engine diesel powered motor vessel owned and operated by Andrew Harnett.
28. On the morning of October 24, 2005, Andrew Harnett and his passenger, Richard Brady, boarded Ready Jet Go at the Piermont Club located on the Hudson River, near the Tappan Zee Bridge.

29. Ready Jet Go got underway on the morning of October 24, 2005 and headed south on the Hudson River until she came approximately abeam the Spuyten Duyvel Bridge at the entrance to the Harlem River.
30. Ready Jet Go passed through the Spuyten Duyvel Bridge at approximately 5:45 AM on the morning of October 24, 2005.
31. Ready Jet Go proceeded south on the Harlem River passing the Columbia Boathouse and ultimately the Peter J. Sharp Boathouse.
32. The Peter J. Sharp Boathouse was lighted at the time Ready Jet Go was abeam of it.
33. None of the rowers saw Ready Jet Go as they rowed south on the Harlem River.
34. Once they reached the area of the 2000 meter mark, the rowers turned the rowing shell back up the river with the shell facing north, in preparation for starting their run back toward the Boathouse
35. None of the rowers saw Ready Jet Go as they turned the rowing shell north to start their run back up the river.
36. READY JET GO struck the bow of the rowing vessel and Mr. Runsdorf, causing his death.
37. After the collision Harnett and his passenger Richard Brady immediately attempted to rescue the rowers from the water.
38. Harnett and Brady succeeded in rescuing three men who were brought on board READY JET GO soon after that vessel had struck the rowing shell.
39. Jim Runsdorf was not located.

40. READY JET GO returned with the survivors to the Peter Jay Sharp Boathouse where they received initial medical attention.
41. Harnett told police that the collision occurred at 6:10 a.m. and that it was “still dark” at that time.
42. It was before sunrise at the time of the collision.
43. It was before civil twilight at the time of the collision.
44. Police Officer Svend Jensen observed that by the time he arrived on the scene of the collision it was still “pitch-black conditions on the river and very poor visibility.”
45. The navigator onboard the responding police boat, Police Officer Phillip Shahin, was acting as a lookout as the police vessel approached the scene of the collision and even so, he did not see the rowing shell until they “were on it.”
46. The time of collision of approximately 6:15 a.m. on October 24, 2005 was prior to sunrise in New York City.
47. At and prior to the time of the collision, the rowing shell was not displaying any navigational lights.
48. At the time of the time of the collision, the rowing shell was “dead in the water”, adrift in the Harlem River, and not making way. Claimants contend that the “shell were not underway and was drifting [*sic*] with the current.”
49. At and prior to the time of the collision the rowing shell was facing north on the Harlem River with the rowers intending to head back toward the Peter J. Sharp Boathouse.

50. According to 33 C.F.R. § 83.09, the United States Coast Guard Navigation Rules, a vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.
51. The Inland Navigation Rules require use of a light onboard a rowing vessel.
52. A vessel under oars, including the rowing shell in this matter, must exhibit lights or “she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.”
53. On the morning of the collision, the rowers did not bring a navigation light aboard with them.
54. The four rowers did not use navigation lights when operating the racing shell or on October 24, 2005.
55. The rowing shell was in the center of the Harlem River at the time it was struck by READY JET GO.
56. The rowing shell was “dead in the water” or not making way when it was struck by READY JET GO.
57. After the crew shell went down the 2000 meter course, they turned around and stopped. They were drifting in the river taking a water break and preparing to strip down.
58. From his seat in the bow of the rowing shell, Jim Runsdorf was in the best position to act as a lookout for the rowing shell.
59. The collision occurred near the center of the Harlem River.
60. The Harlem River is a narrow channel.

61. The operator of Ready Jet Go, Mr. Harnett, did not see the rowing shell or its occupants until after he heard the sounds of the impact between Ready Jet Go and the rowing shell.
62. Mr. Harnett reduced the speed of Ready Jet Go after he first perceived the collision and ultimately stopped his vessel in the Harlem River.
63. Mr. Harnett observed the heads and parts of the bodies of three men and the wreckage of the rowing shell astern of Ready Jet Go floating in the Harlem River after he brought his vessel to a stop.
64. Mr. Harnett steered Ready Jet Go to the site of the collision and he and Mr. Brady assisted Mr. Houston, Mr. Lundwall, and Mr. Joyce get on board Ready Jet Go.
65. Mr. Harnett then steered Ready Jet Go at the site of the collision in an attempt to locate Mr. Jim H. Runsdorf.
66. Before he was rescued by Ready Jet Go, Mr. Lundwall attempted to locate Mr. Jim H. Runsdorf in the water; even diving under the inverted wreckage of the rowing shell. Mr. Lundwall was unable to locate Mr. Runsdorf.
67. The body of Jim H. Runsdorf could not immediately be found after the collision.
68. Following the collision, Andrew Harnett ferried the remaining three rowers to shore.
69. Jim H. Runsdorf's body was found near the center of the Harlem River on October 28, 2005.
70. The weather was not a factor in the events resulting in the collision between Ready Jet Go and the rowing shell.

71. Mr. Edward Joyce suffered injuries requiring hospitalization as a result of the collision between Ready Jet Go and the rowing shell.
72. On October 24, 2005 the U.S. Naval Observatory predicated and reported:

**U.S. Naval Observatory
Astronomical Applications Department**

Sun and Moon Data for One Day

The following information is provided for New York, New York (longitude W73.9, latitude N40.7):

Monday 24 October 2005	Eastern Daylight Time
SUN	
Begin civil twilight	6:49 a.m.
Sunrise	7:17 a.m.
Sun transit	12:40 p.m.
Sunset	6:02 p.m.
End civil twilight	6:30 p.m.
MOON	
Moonrise	10:33 p.m. on preceding day
Moon transit	6:33 a.m.
Moonset	2:25 p.m.

Last quarter Moon on 24 October 2005 at 9:19 p.m. Eastern Daylight Time.

73. On March 18, 2011, the claimants provided copies of their expert reports by Captain Ahlstrom, Harriet M. Metcalf, and Stephen W. Schulman.
74. Captain Ahlstrom was retained by Claimants as a navigation expert.
75. Captain Ahlstrom concludes in his expert report that the failure of the rowers, and specifically Runsdorf, to use lights on the morning of October 24, 2005 was not causative.

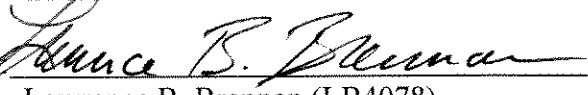
76. Harriet (Holly) M. Metcalf was retained by Claimants to provide an opinion on the standard of care and accepted custom and practice for the operation of crew boathouses.

Dated: New York, New York
November 22, 2011

Yours, etc.

WILSON, ELSER, MOSKOWITZ,
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By



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CERTIFICATE OF SERVICE

I, Brooke Travis, hereby certify that I electronically filed the attached Reply Affidavit of Lawrence B. Brennan and related exhibits on behalf of Peter Jay Sharp Boathouse, Inc. and New York Rowing Association, Inc., with the Clerk of the Court using the CM/ECF system which will send notification of such filing electronically to the following:

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